

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

IN RE: AMWEST SURETY  
INSURANCE COMANPY,

Debtor.

8: 03CV521

STATE OF NEBRASKA, ex rel. L. TIM  
WAGNER, Director of Insurance of the  
State of Nebraska,

Plaintiff,

v.

LINTHICUM CONSTRUCTORS, INC.,

Defendant.

OBJECTIONS TO MAGISTRATE  
JUDGE'S  
REPORT AND RECOMMENDATION

COMES NOW Defendant Linthicum Constructors, Inc, by and through its attorneys of record, and files its objections to the Magistrate Judge's Report and Recommendation. Defendant makes this objection pursuant to 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P. 72 and NELR 72.4 and on the following grounds:

1. The Magistrate Judge erred generally in finding that remand was appropriate and necessary.
2. The Magistrate Judge erred in finding the District Court of Nebraska is divested of diversity jurisdiction pursuant to the McCarran-Ferguson Act and the doctrine of inverse preemption.
3. The Magistrate Judge erred in finding that federal diversity jurisdiction (codified at 28 U.S.C. § 1332) impairs, invalidates, or supercedes the Nebraska Liquidation Act.

4. The Magistrate Judge erred in finding that the district court of Lancaster County has exclusive jurisdiction over this action.

WHEREFORE, pursuant to the foregoing, and the brief submitted concurrently with these objections, Defendant respectfully requests the Court:

1. Sustain Defendant's objection and deny remand.
2. Find that the District Court of Nebraska has subject matter jurisdiction pursuant to 28 U.S.C. 1332 (diversity jurisdiction).
3. Adopt the Magistrate Judge's finding that abstention is inappropriate.
4. Award all other relief this Court deems necessary, just and equitable.

Dated this 10<sup>th</sup> day of May 2004.

LINTHICUM CONSTRUCTORS, INC.,

By: 

Robert F. Craig, (NE #10819)  
Shawn M. Grimsley (NE #22770)  
Robert F. Craig, P.C.  
1321 Jones Street  
Omaha, NE 68102  
(402) 408-6004